FOUNDATIONS FACE SWEEPING INQUIRY BY A HOUSE PANEL

Hearings Start Tomorrow —Study First of Its Kind by Congress in 20 Years

46 WITNESSES CALLED

McGeorge Bundy, Shanker and Lefkowitz on List— Tax Exemption an Issue

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WASHINGTON, Feb. 16—The first comprehensive Congressional examination of tax-exempt organizations in nearly 20 years will begin Tuesday before the House Ways and Means Committee.

A witness list of 46 for just the four opening days of the hearings indicates the number and complexity of the issues involved.

The American Psychiatric Association wants the revenue from advertising in its professional journal to remain nontaxable.

Louis J. Lefkowitz, the Attorney General of New York, is expected to report on the progress made in registering and disciplining tax-exempt foundations under a state law of 1967 and to ask for more Federal cooperation and penalties to help him in his task.

Bundy To Be Heard

McGeorge Bundy, president of the Ford Foundation, will be called upon to defend the sheer size of his organization—with $3.5-billion in assets it is by far the largest of all foundations—and probably also to explain actions such as its recent grants for travel and study to eight members of the staff of the late Senator Robert F. Kennedy.

The Ford Foundation's president will also be challenged to justify its decision to finance the experiment in school decentralization in the Ocean Hill-Brownsville district of New York, about which Albert Shanker of the United Federation of Teachers, also a scheduled witness, wishes to complain.

The Maryland State Fair and Agriculture Society wants to argue that the horse races it runs in conjunction with state fairs are directly related to the purposes of the society, and that the income from the races should thus be tax-exempt.

More Problems

The issues represented by these five witnesses by no means cover the entire set of problems before the committee, any more than these individuals constitute the whole witness list.

There is no scheduled witness, for example, who is expected to claim a legal or moral right to create a foundation, deduct his contributions to it and then receive as a grant from the foundation money with which to speculate in the stock market.

Yet opportunities for self-dealing of this sort, and the methods of foreclosing them, constitute one of the main problems before the committee.

Almost no one believes in the outright abolition of tax exemption, which serves as a form of indirect Government aid and encouragement to religious, educational, charitable, fraternal and other similar activities including those organized in foundation form.

President Johnson's Treasury Department, as a preface to recommendations for tightening the requirements for tax exemption, stated a strong affirmative case for continuation of the principle of tax exemption.

"Private philanthropy plays a special and vital role in our society," the Treasury said.

"Beyond providing financial aid to areas which Government cannot or should not advance (such as religion), private philanthropic organizations are uniquely qualifed to nitiate thought and action, experiment with new and untried ventures, dissent from prevailing attitudes and act quickly and flexibly."

Yet questions persist in the minds of the public about tax-exempt organizations—especially foundations. The most urgent fall into these broad groups:

¶Are foundations becoming too big as economic entities? Do they, and their holdings, represent a dangerous concentration of economic power or erosion of the base of taxable business income and unfair competition for taxpaying businesses?

¶Under the guise of education or research, are foundations consistently subsidizing one political view over another or aiding causes that society generally may disapprove of such as the provision of shelter to runaway hippie teen-agers or assistance to women who want abortions? If so, what can or should be done about it?

¶To what extent are tax-exempt foundations being used for the self-enrichment of their creators?

Reliable Data Lacking

Any attempt to assess the economic importance of foundations immediately runs afoul of the lack of comprehensive, reliable data.

The latest information available, which comes from the Foundation Center in New York —itself supported by foundation funds—indicates that the assets of all foundations a year ago totaled more than $20-billion.

The Foundation Center cannot compel foundations to report to it, however, and its files indicated the existence of only 20,000 foundations.

The Internal Revenue Service, on the other hand, found 30,262 foundations when it checked its files late last year and, for the first time, published a complete list of their names and addresses.

But Internal Revenue has disclosed nothing about the assets, earnings or disbursements of the 30,000 foundations with active tax-exempt status.

The most comprehensive recent attempt to study the size and growth of foundations was made by the Treasury Department in 1964.

Its report is studded with caveats suggesting the unreliability of its own data.

But the Treasury does conclude that foundations have probably grown no faster in recent years than the economy as a whole, if due allowance is made for the fact that foundations have much of their assets in common stocks and that the value of common stocks has grown considerably more than the over-all economy in the last couple of decades.

The data in the Treasury's study is for 1962, however, and much has happened since, including [illegible] It is presumed but not known, the formation of 2,000 new tax-exempt foundations each year since then. Most of these were small, however, with assets of less than $100,000.

The Treasury's study showed that in 1962 the 175 largest foundations had two-thirds of the total assets and the 9,000 smallest (out of a total of 15,000) had only 2 per cent.

Size Not Only Problem

The sheer size of the largest foundations is not the only cause for concern of those who fear concentration of economic power, however. Some middle-sized foundations, such as the Irvine Foundation, which owns vast acreages in one county of California, can have great power locally.

Officials of this foundation will be among the week's witnesses.

In addition, there is concern in many quarters about the impact on the economy and on competing businesses of the provisions of present law that permit churches or fraternal societies to benefit from tax-free income from business they own that may be wholly unrelated to their basic philanthropic purpose.

The Johnson Treasury proposed outlawing this type of tax exemption—as was done in the case of private schools and colleges 20 years ago—but a fight looms.

There is also the prospect of controversy, though perhaps somewhat less of it, over proposals for repeal of what is known as the Clay Brown decision.

In that case the Supreme Court upheld so many tax-free angles to the sale of a business to a church that many tax experts believe the churches could wind up owning a substantial share of the nation's small and medium-sized business if something is not done.

It is not known where the new Administration will stand on any of these issues. But where the problem of concentrated economic power is concerned, the proposals of the Johnson Treasury seem to stand in a middle ground between those who belittle foundation power and those who consider foundations a potential menace to freedom.

One Proposal Cited

The Treasury has proposed, for example, that no foundation be permitted to own more than 20 per cent of any business that is unrelated to its tax-exempt function.

Representative Wright Patman of Texas, who has intermittently conducted a personal investigation of foundations for eight years, wants them put under a 25-year death sentence. They should be required by law, he has argued, to distribute all their assets in that length of time and then go out of existence.

Mr. Patman is famous in Congress—and unpopular—for his ceaseless attacks on concentrations of wealth, wherever he finds them.

His inquiries (technically those of a Small Business subcommittee, which he heads) have, however, uncovered a number of abuses by foundations that Treasury and Internal Revenue were ultimately forced to pay attention to.

He uncovered a group of foundations that was lending money, illegally, for speculation in the stock market. The foundations ultimately lost their tax exemption.

His researchers also were the first to uncover the use of foundations by the Central Intelligence Agency as conduits to channel funds to student, labor and other organizations. Mr. Patman dropped this line of inquiry after an appeal from the C.I.A., but he had exposed a trail for others to follow.

Computers Used

Mr. Patman's staff, incidentally, makes extensive use of computers in its investigations—one of the few in Congress that does.

The self-dealing between foundations and their creators that Mr. Patman turned up over the years unquestionably helped prod the Treasury into its study of foundations and Internal Revenue into the more extensive auditing that began in the mid-sixties.

The Treasury's proposals to put an end to self-enrichment through foundations include prohibition of financial transactions between foundations and their founders, contributors or other personnel.

The Treasury also recommended bans against speculative investments, borrowing by foundations to buy assets and other presently legal activities that might be aimed at enriching the individuals who formed or controlled the foundation.

It is these proposals against abuse of the tax-exempt privilege that the Ways and Means Committee will focus on most carefully once the public hearings are done and the committee begins its private deliberations.

These abuses involve almost exclusively the smaller foundations.

The public hearings, however, seem likely to be occupied extensively with the desirability of what the foundations are doing when they do what they are supposed to—that is, distribute money to scholars, churches and so on.

Do the American people really want to subsidize, through tax exemption, the activities of extreme left or right-wing scholars?

The Affirmative View

Should a foundation originating in the General Motors fortune be investing in studies of extrasensory perception?

Alan Pifer, president of the Carnegie Corporation, one of the largest foundations, summed up the affirmative view in the corporation's annual report.

"The dilemma faced by society," he said, "has always been how to hold foundations accountable without, at the same time, killing off the very thing that gives them their peculiar value—their freedom."

Mr. Pifer proposed that foundations voluntarily become more accountable to the public — through publication of detailed annual reports of their activities. A few of the larger foundations, among them Carnegie, do this now.

It seems possible that Congress may legislate such a reporting requirement.

If foundations do not clean out their own houses, Mr. Pifer warned, they may find themselves "fettered and then destroyed by a society that has lost faith" in them.